

**VOSHA REVIEW BOARD MEETING MINUTES**  
**13 Baldwin Street, Montpelier, VT 05633**

**January 12, 2016**  
**9:00 a.m.**

The Board Meeting was attended by Leigh Keyser Phillips (Chair), Benjamin R. O'Brien (Member), Thomas Jagielski (Member) by telephone, and Carolyn Desch (Clerk).

Approval of Minutes

RESOLUTION PASSED: Upon motion made by Thomas Jagielski, and seconded by Benjamin O'Brien, the Board unanimously voted to approve the minutes of the November 10, 2015 VRB meeting as amended.

Closed Cases

We have closed two cases (PC Construction Co. R.B. 968 & Todd Osgood Construction R.B. 970) since the November Board Meeting. In total, we have closed 7 cases since the beginning of FY16.

Review of Open Cases

We have nine open cases total which is one more than the Nov. 2015 meeting. Carolyn Desch reviewed the docket. The docket summary is attached to the minutes. Any discussion and action are listed below.

Approval of Settlement Agreements (attached to minutes)

RESOLUTION PASSED: Upon motion duly made by Benjamin O'Brien, and seconded by Thomas Jagielski and after full discussion, the Board unanimously voted to ratify and approved the settlement agreements in the following cases:

Queston, Inc. (R.B. 974)  
Rainville Custom Crops (R.B. 976)

Discussion of Other Cases

Farm to Fridge is currently under a directed review. There was discussion around burden of proof and equal protection issues relating to OHSA's policy disallowing a good history discount for employers whom had not had a prior inspection. Board Chair Leigh Keyser Phillips said she needed to do more research on these issues.

Moon Ridge Home Owners Association (R.B. 972): Carolyn reviewed the parts of the case to give the Board an overview of it in preparation for reviewing the Hearing Officer's Decision.

New Cases: Vaillancourt Property Mgt., Inc. (R.B. 975) has been assigned Hearing Officer Alan Rome and is in the process of being scheduled a hearing. Carolyn gave an overview of the citations for this case as well as the three new cases GARDA CL New England, Inc (R.B. 977), Engineers Construction, Inc. (R.B. 978) and Big Lots Stores, Inc. (R.B. 979). There was some discussion around Big Lots Stores, Inc., and its being a repeat offense, based upon a violation by a store, not located in Vermont. The Board asked Carolyn Desch to look into another case in which the Board had decided that a violation was not a repeat violation, if it was based on a violation in a different location, especially if the location was outside of Vermont.

Dumas Roofing Co. Inc (R.B. 971). The January 8, 2016 hearing was postponed, due to health reasons. A discussion followed with DOL representatives and Hearing Officer Frank Murray on

how to move forward with a case where the respondent might not appear for a hearing. It was agreed that the cover letter for the notice of a rescheduled hearing would state that there is an option to be present at the hearing by telephone conference. It was also decided to use Priority Mail, as it could be tracked, for any further correspondence with the respondent in this matter.

#### Financial

The Board reviewed the financials for the current FY 2016 through the end of December 2015. A meeting with legislators on the 2017 FY budget has not been scheduled yet. Also, Benjamin O'Brien brought up for discussion Bill H63 which, if adopted, would increase the per diem rate for some boards and commissions. Carolyn Desch will look into why the VOSHA Review Board is not on this list.

#### Rules of Procedure Status Discussion

There was discussion about Simplified Proceedings (SP), and whether they should be automatic, with requests made for formal proceedings, or if the procedure should be left the way it is. If the process is changed to require formal proceedings be an opt out option, it could be a more efficient way of dealing with cases that do not meet the criteria for being SP.

#### Scheduling of Board Meetings.

The next two Board meetings were tentatively scheduled for March 1, 2016 at 9:00 a.m. and June 1, 2016, 8:30 a.m. at the VRB offices at 13 Baldwin Street in Montpelier, Vermont. Thomas Jagielski will need to confirm.